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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,398

09/19/2003

Douglas S. Ransom

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BRINKS HOFER GILSON & LIONE/PML

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EXAMINER

VON BUHR, MARIA N

ART UNIT

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2121

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,398	<b>Applicant(s)</b> RANSOM ET AL.	
	<b>Examiner</b> M.N. VON BUHR	<b>Art Unit</b> 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 92-97, 100-106, 109-115 and 118-124 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 92-97, 100-106, 109-115 and 118-124 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. In response to Applicant's remarks, the finality of the previous Office action is hereby withdrawn.
2. Examiner acknowledges receipt of Applicant's response to the previous Office action, received 31 July 2008. Claims 92-97, 100-106, 109-115 and 118-124 remain pending in this application.
3. In response to Applicant's remarks (page 9 of the instant response), concerning the effective filing date of the instant application and the instant claim language being supported by parent applications, all previously presented rejections of the claims are deemed to have been overcome and are, therefore, withdrawn.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 92-94, 96 and 100 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 27, 43, 57, 59-61, 75, 80 and 82 of U.S. Patent No. 6,961,641 in view of Byers et al. (U.S. Patent No. 6,975,619; newly cited).

Claims 1, 27, 43, 57, 59-61, 75, 80 and 82 of U.S. Patent No. 6,961,641 contain every element of claims 92-94, 96 and 100 of the instant application, except for the limitations "wherein said processor further is operative to determine a geographical location of said energy management device" and "wherein said power management data may be authenticated based on said geographical location." In this regard, Byers et al. teach a "geographic location identification system and method for a packet data network is disclosed wherein geographic location information is provisioned or derived at nodes that comprise the network" (abstract), including "in a packet data network, a method for authenticating identification information provided by remote entity, comprising the steps of: provisioning or deriving geographic location information at network nodes that comprise the packet data network such that each network node provisions or derives geographic location information about itself; providing said geographic location information to a requesting node in said packet data network; processing said geographic location information at said requesting node to determine the geographic location of a node to be located in said packet data network; and said requesting node serving on authenticating entity in a packet data session and said node to be located serving an information providing entity in said packet data session" (claim 29). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such an authentication system for the measurements of the system claimed in U.S. Patent No. 6,961,641, because Byers et al. teach a resultant increased reliability and security of the system.

Examiner notes that the effective filing date of Byers et al. (20 March 2000) predates the effective filing date of the instant application (22 March 2001), as supported by Applicant's remarks in the responses dated 20 September 2007 and 31 July 2008, and predates the effective filing date of parent application S.N. 09/723,564 (28 November 2000), which is the oldest parent application in the instant chain of continuity deemed to provide support for the instantly claimed authentication based on geographical location data.

6. Claims 118 and 119 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 2 and 6 of U.S. Patent No. 6,990,395 in view of Byers et al. (U.S. Patent No. 6,975,619).

Claims 1, 2 and 6 of U.S. Patent No. 6,990,395 contain every element of claims 118 and 119 of the instant application, except for the limitations "wherein said processor further is operative to determine a geographical location of said energy management device" and "wherein said power management data may be authenticated based on said geographical location." In this regard, Byers et al. teach a "geographic location identification system and method for a packet data network is disclosed wherein geographic location information is provisioned or derived at nodes that comprise the network" (abstract), including "in a packet data network, a method for authenticating identification information provided by remote entity, comprising the steps of: provisioning or deriving geographic location information at network nodes that comprise the packet data network such that each network node provisions or derives geographic location information about itself; providing said geographic location information to a requesting node in said packet data network; processing said geographic location information at said requesting node to determine the geographic location of a node to be located in said packet data network; and said requesting node serving on authenticating entity in a packet data session and said node to be located serving an information providing entity in said packet data session" (claim 29). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such an authentication system for the measurements of the system claimed in U.S. Patent No. 6,990,395, because Byers et al. teach a resultant increased reliability and security of the system.

7. Claims 118, 120 and 124 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 4, 10, 12 and 15 of U.S. Patent No. 7,248,978 in view of Byers et al. (U.S. Patent No. 6,975,619).

Claims 1, 4, 10, 12 and 15 of U.S. Patent No. 7,248,978 contain every element of claims 118, 120 and 124 of the instant application, except for the limitations "wherein said processor further is operative to determine a geographical location of said energy management device" and "wherein said power management

data may be authenticated based on said geographical location.” In this regard, Byers et al. teach a “geographic location identification system and method for a packet data network is disclosed wherein geographic location information is provisioned or derived at nodes that comprise the network” (abstract), including “in a packet data network, a method for authenticating identification information provided by remote entity, comprising the steps of: provisioning or deriving geographic location information at network nodes that comprise the packet data network such that each network node provisions or derives geographic location information about itself; providing said geographic location information to a requesting node in said packet data network; processing said geographic location information at said requesting node to determine the geographic location of a node to be located in said packet data network; and said requesting node serving on authenticating entity in a packet data session and said node to be located serving an information providing entity in said packet data session” (claim 29). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such an authentication system for the measurements of the system claimed in U.S. Patent No. 7,248,978, because Byers et al. teach a resultant increased reliability and security of the system.

8. Claims 118 and 122 are provisionally rejected on the ground of non-statutory double patenting over claims 14-17 of co-pending U.S. Application Serial No. 11/497,218 in view of Byers et al. (U.S. Patent No. 6,975,619).

Claims 14-17 of co-pending U.S. Application Serial No. 11/497,218 contain every element of claims 118 and 122 of the instant application, except for the limitations “wherein said processor further is operative to determine a geographical location of said energy management device” and “wherein said power management data may be authenticated based on said geographical location.” In this regard, Byers et al. teach a “geographic location identification system and method for a packet data network is disclosed wherein geographic location information is provisioned or derived at nodes that comprise the network” (abstract), including “in a packet data network, a method for authenticating identification information provided by remote entity, comprising the steps of: provisioning or deriving geographic location information at network nodes that comprise the packet data network such that each network node provisions or derives geographic location information about itself; providing said geographic location information to a requesting node in said packet data network; processing said geographic location information at said requesting node to determine the geographic location of a node to be located in said packet data network; and said requesting node serving on authenticating entity in a packet data session and said node to be located serving an information providing entity in said packet data session” (claim 29). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such an authentication system for the measurements

of the system claimed in U.S. Application Serial No. 11/497,218, because Byers et al. teach a resultant increased reliability and security of the system.

9. Claims 118 and 119 are now rejected under 35 U.S.C. §103(a), as being unpatentable over Leach (U.S. Patent No. 6,954,814) in view of Byers et al. (U.S. Patent No. 6,975,619).

Leach discloses a “method and system for monitoring utility meter status, and transmitting a status message via an output device connected to a universal communications interface ... The system is connected to a utility meter, such as an electric meter. The voltage level of the electric meter is monitored through a voltage input interface. An analog-to-digital converter transforms the voltage waveform into a series of digital data packets, which are then transmitted to a microprocessor ... the microprocessor transmits a status message across a universal serial bus to a universal communications interface. The universal communications interface is connected to at least one slot, which contains at least one output device ... The output device may then transmit the status message to a remote receiver” (the abstract), wherein the universal communications interface, analogous to the instantly claimed “network interface,” provides for wireless communication (see, at least, col. 3, lines 33-48; col. 4, lines 15-32; col. 5, lines 20-30). Examiner notes that the effective filing date of Leach (10 June 1999) predates the effective filing date of the instant application (22 March 2001), as supported by Applicant’s remarks in the response dated 20 September 2007.

However, Leach does not disclose the limitations “wherein said processor further is operative to determine a geographical location of said energy management device” and “wherein said power management data may be authenticated based on said geographical location.” In this regard, Byers et al. teach a “geographic location identification system and method for a packet data network is disclosed wherein geographic location information is provisioned or derived at nodes that comprise the network” (abstract), including “in a packet data network, a method for authenticating identification information provided by remote entity, comprising the steps of: provisioning or deriving geographic location information at network nodes that comprise the packet data network such that each network node provisions or derives geographic location information about itself; providing said geographic location information to a requesting node in said packet data network; processing said geographic location information at said requesting node to determine the geographic location of a node to be located in said packet data network; and said requesting node serving on authenticating entity in a packet data session and said node to be located serving an information providing entity in said packet data session” (claim 29). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such authentication in the system of Leach, because Byers et al. teach a resultant increased reliability and security of the system.

**10.** Claims 92-97, 100-106, 118-124 are now rejected under 35 U.S.C. §103(a), as being unpatentable over McMillin (U.S. Patent No. 7,027,773) in view of Byers et al. (U.S. Patent No. 6,975,619), further in view of Applicant's admitted prior art (as noted below).

McMillin discloses a "wireless network of intelligent transceiver nodes which employ local processing and node-to-node data messaging to hand off messages from an origination point to a destination point" (col. 1, lines 10-16), wherein a "micro-controller 510 controls the transceiver 500 via an a/d converter 560 and a peripheral interface 570. The interface may be any communications interface such as a GPS receiver, GPS differential augmentation, wide area wireless network, local area wireless network, cellular modem, land line modem, satellite data modem, personal computer interface, PDA interface, or any other hardware or software system interface" (col. 10, lines 5-15), applicable to a power management environment (see, at least, col. 49, lines 33-44). Examiner notes that the effective filing date of McMillin (28 May 1999) predates the effective filing date of the instant application (22 March 2001), as supported by Applicant's remarks in the response dated 20 September 2007.

However, McMillin does not disclose the limitations "wherein said processor further is operative to determine a geographical location of said energy management device" and "wherein said power management data may be authenticated based on said geographical location." In this regard, Byers et al. teach a "geographic location identification system and method for a packet data network is disclosed wherein geographic location information is provisioned or derived at nodes that comprise the network" (abstract), including "in a packet data network, a method for authenticating identification information provided by remote entity, comprising the steps of: provisioning or deriving geographic location information at network nodes that comprise the packet data network such that each network node provisions or derives geographic location information about itself; providing said geographic location information to a requesting node in said packet data network; processing said geographic location information at said requesting node to determine the geographic location of a node to be located in said packet data network; and said requesting node serving on authenticating entity in a packet data session and said node to be located serving un information providing entity in said packet data session" (claim 29). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such authentication in the system of McMillin, because Byers et al. teach a resultant increased reliability and security of the system.

As per claims 96, 97, 105, 106, 114, 115, 122 and 123, although McMillin teaches Applicant's invention substantially as instantly claimed, as noted above, and McMillin recognizes the availability of and uses GPS technology (see, at least, col. 17, lines 30-56), McMillin does not specifically use the communications interface to "determine a geographical location of the energy management device" by "RF

triangulation.” In this regard, Applicant acknowledges, at page 15 of the instant specification, “cellular modems further provide the functionality to determine the geographic location of the IED using cellular RF triangulation,” such capability being a well known feature of cellular modems, as they are well known to be customarily used in the prior art to communicate wirelessly with mobile devices. Accordingly, since McMillin teaches using a cellular modem, it would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to use the known capability of cellular modems to determine the location of such modems, for the benefit and purpose of assuring accurate billing, monitoring and diagnosing system faults, etc.

Further as per claims 95, 100, 104, 109, 113, 121 and 124, Applicant acknowledges, at page 17 of the instant specification, that SLIP, PPP and TCP/IP are well-known Internet transport protocols.

**11.** This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for Examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §102(e), (f) or (g) prior art under 35 U.S.C. §103(a).

**12.** The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. Applicant is advised to carefully review the cited art, as evidence of the state of the art, in preparation for responding to this Office action. Each reference discloses authentication based upon geographical location.

**13.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to M.N. VON BUHR whose telephone number is (571)272-3755. The examiner can normally be reached on M-F (9am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M.N. VON BUHR/  
Primary Examiner, Art Unit 2121